

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

ABBAS JAFARIAN,)	
)	
Plaintiff,)	
)	
v.)	No: 1:19-cv-11205-RWZ
)	
JOHN DOE,)	
)	
Defendant.)	

**MOTION FOR LEAVE TO SERVE A THIRD-PARTY
SUBPOENA PRIOR TO A RULE 26(F) CONFERENCE**

Plaintiff Abbas Jafarian (“Mr. Jafarian”) respectfully requests that this Court grant him leave, pursuant to Federal Rules of Civil Procedure 26 and 45, to issue and serve a subpoena *duces tecum* to non-party Knock Knock Whois Not There, LLC, for purposes of identifying the defendant, who is currently unknown.

In support of this Motion, Mr. Jafarian states as follows:

1. On May 29, 2019, Mr. Jafarian filed his complaint in this action against an unidentified defendant, referred to as “John Doe.” Mr. Jafarian’s complaint alleges claims for cybersquatting and defamation against defendant Doe, arising specifically from the defendant’s registration of the domain name www.abbas-jafarian.com (the “Domain Name”), which is identical to Mr. Jafarian’s name, and publishing a webpage at the Domain Name that contains maliciously false and defamatory statements.

2. The true identity of defendant Doe is currently unknown to Mr. Jafarian, despite Mr. Jafarian’s efforts to discover it. The Domain Name was registered through the registrar Automattic, but the WHOIS data for the Domain Name registration does not identify the actual

registrant. Instead, the Domain Name registration indicates that the Domain Name is registered to an entity named “Knock Knock Whois Not There, LLC.”

3. Upon information and belief, which is based upon Mr. Jafarian’s investigations, Knock Knock Whois Not There, LLC is a Delaware limited liability company wholly owned by Automattic that provides “privacy shield” services. In other words, Knock Knock Whois Not There, LLC (hereafter referred to as “Knock Knock”) is identified as the nominal owner of a domain registration for the specific purpose of obscuring the identity of the actual owner.

4. The Webpage comprises a single page. It includes a screen capture of Mr. Jafarian from a television appearance on CNBC, together with paragraphs of false and defamatory allegations that Mr. Jafarian is “close to” or “belong[s] to” the Muslim Brotherhood, an organization that has sometimes been labeled a foreign terrorist organization.

5. On June 5, 2019 Mr. Jafarian served a subpoena on Knock Knock. (A copy of the subpoena that was previously served, and which Mr. Jafarian seeks leave to serve is attached as Exhibit A (the “Subpoena”).) The Subpoena was narrowly tailored to seek information that would assist Mr. Jafarian in identifying defendant Doe; it requested registrant account information concerning the Domain Name registration, documents concerning the identity of the person or entity who registered or acquired the Domain Name registration, and documents concerning billing records or records of payment associated with the Domain Name registration.

6. On June 12, 2019, Knock Knock responded to the Subpoena by email from its counsel to Mr. Jafarian’s counsel (see Exhibit B). Although Knock Knock is not a party to this proceeding and has no apparent interest in the sequencing of discovery, Knock Knock objected to the Subpoena on the grounds that it was served prior to a Rule 26(f) conference.

7. Accordingly, Mr. Jafarian now asks the Court to grant leave to serve the Subpoena on non-party Knock Knock prior to a Rule 26(f) conference. There is good cause for this request: Mr. Jafarian cannot possibly conduct a Rule 26(f) conference because the true identity of defendant Doe is unknown. Mr. Jafarian needs the information in the possession of Knock Knock to identify defendant Doe. Upon receiving this information, Mr. Jafarian will be in a position to amend his complaint to name the defendant and proceed with the litigation in the ordinary course.

8. Mr. Jafarian makes this request in good faith and without any purpose to harass or delay.

WHEREFORE, plaintiff Abbas Jafarian respectfully requests that the Court grant him leave to serve the Subpoena upon Knock Knock Whois Not There, LLC before conducting a FRCP 26(f) conference.

Respectfully submitted,

ABBAS JAFARIAN

By his attorneys,

/s/ Edward J. Naughton

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DATED: June 19, 2019

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was filed electronically. Notice of this filing will be sent by e-mail to all parties by operation of the court's electronic filing system or by mail to anyone unable to accept electronic filing as indicated on the Notice of Electronic Filing. Parties may access this filing through the court's CM/ECF System.

/s/ Edward J. Naughton

Edward J. Naughton

Dated: June 19, 2019